

Terms for CLP Government Program

Program Member shall advise Participating Entities of the following terms and conditions of the Program:

If you are a Government Entity who is located in the United States, and who wish to avail yourself of the benefits of the Adobe CLP Government Program and purchase licenses of Adobe Software Products under your Government Contract(s), **the following Adobe Terms for CLP Government Program shall apply to you:**

Definitions:

“Adobe” means Adobe Systems Incorporated.

“ALCG” means an Adobe License Center-Government, specifically an Adobe authorized distributor licensed to distribute Software Products to Program Members who are Government Entities. All ALCGs are entitled to distribute the CLP-Open program under the terms and conditions of this Agreement.

“ALC-GSA” means an ALCG who in addition to being entitled to distribute the CLP-Open Program, is also entitled to distribute the CLP-GSA Program.

“End User License Agreement” means the Adobe Software Product end user license agreement for the relevant Software Product, and which accompanies the Software Product (either in written form or in electronic click-through form) and which is currently updated from time to time.

“Government Contract” means the volume license agreement between you and a legitimate reseller or integrator of Adobe Software Products, pursuant to which you license Adobe products. Government Contracts cannot exceed a term of 5 years.

“Government Entities” means agencies, institutions, school districts and political subdivisions of the state of Washington (e.g. counties, cities, public utility districts), as defined in the Interlocal Cooperation Act, chapter 39.34 RCW. For the avoidance of doubt, private “for profit” companies are specifically excluded. Government Entities shall include Participating Entities, as defined herein.

“Government Reseller” means a reseller, systems integrator, contractor or other similar entity engaged in the supply of computer related products, including software, to Government Entities and who supply under a Government Contract, a blanket purchase agreement or other procurement agreements with one or more Government Entities.

“License(s)” means the license or right granted by Adobe to install and use the Software in accordance with the End User License Agreement. License shall also include an Upgrade license.

“License Confirmation” means evidence of your license provided by Adobe via your Adobe reseller or integrator.

“Maintenance” means the right to order and receive such updates, patches and Upgrades for the Software as may be released during the term of your Government Contract.

“Participating Entities” means an entity, such as a division or sub-agency, that is under a Program Member’s umbrella organization as listed by its ALCG in the applicable Membership Authorization. Participating Entities may only participate in the Program as long as the Government Entity they form a part of remains a Program Member, and under the same terms as such Program Member. Any obligations pertaining to Program Member shall be deemed as applying to the Participating Entities

“Points” means the credits (in the form of points) which are allocated to Software Products and which are accumulated by Program Member under the Program. Accumulation counts towards Program Member’s Points Target. Point values may be changed by Adobe from time to time upon notice to the Program Member. Points at the current time are calculated at 1-2 points per license, Adobe reserves the right to modify points and add new Software Products with different points.

“Points Target” means Program Member’s minimum points target during the Program.

“Program” means the Adobe Open Options Contractual Licensing Program for Government (“CLP Government”) described herein.

“Program Member” means State of Washington Department of Information Services (“DIS”), once authorized for participation in the Program by its ALCG, and whose authorization is in force at the time Program Member wishes to order Software Products from ALCG.

“Software Products” means Licenses, User Documentation, Maintenance and Media copies of the Software, collectively or individually, available under the Program. The Software Products available under the Program may be modified from time to time.

“Upgrade” means a version of the Software described as an upgrade and intended for use by End Users of the previous versions of the same Software.

“User Documentation” means the manuals, supporting documentation and other materials whether of a technical nature or otherwise provided for use with the Software by Adobe. Each License shall include the right to use the User Documentation and, in the case of electronic User Documentation, includes the right to print one hard copy of such User Documentation, however, under no circumstances shall Program Member be entitled to reproduce the User Documentation, except as provided herein.

“You” means the Government Entity which has entered into the volume license Government Contract pursuant to which a copy of the Software Product is being licensed and, if applicable, its affiliates or users. “You” and “Program Member” may be used interchangeably herein.

Terms and Conditions.

1. Program Member’s participation in the Program shall be governed by these terms and conditions, and no other terms or conditions except for those of the applicable End User License Agreement, shall apply.

2. Program Member’s Participating Entities may participate in the Program during the Term subject to the following:

(a) Program Member must first notify its ALCG of the names and addresses of those Participating Entities Program Member wishes to have participate in the Program. Program Member may add Participating Entities to the Program at any time by notifying its ALCG. The Program Member ID Number shall be used by all Participating Entities participating in the Program;

(b) during the term of the Government Contract, such Participating Entities shall be entitled to the benefits of the Program provided that and for so long as they remain Participating Entities of Program Member and comply with the provisions of these terms and conditions and all End User License Agreements accompanying the Software Products;

(c) Program Member shall advise all Participating Entities that their participation in the Program is dependent upon compliance with these Program terms and conditions. In order to participate in the Program, Participating Entities must be aware of and intend to comply with all the terms and conditions applicable to the Program Member. Program Member shall advise Participating Entities that their failure to comply with Program terms may disqualify them from

further participation. In the event Program Member learns that a Participating Entity has violated the Program terms and conditions, Program Member shall require such Participating Entity to refrain from further participation and shall advise its ALCG thereof. In particular (without limiting the foregoing), Program Member shall also advise all Participating Entities of their obligation to comply with all the terms of the applicable End User License Agreements; and

(d) without limiting the foregoing, a Participating Entity's participation in the Program shall cease immediately if it ceases to be a Participating Entity of the Program Member. Program Member shall notify its ALCG immediately if this occurs.

3. It is a condition of Program Member's (and any Participating Entity's) participation in the Program that Program Member (and each such Participating Entity) is an End User and Program Member hereby warrants to Adobe that it and any Participating Entities are End Users.

4. Program Member's right to install and use each copy of the Software Products shall be subject to all the terms and conditions of the End User License Agreement that accompanies the Software Product (whether in paper form or in electronic click-through form).

(a) In the event that Program Member does not wish to accept the End User License Agreement, Program Member should return the Software Products in accordance with the instructions in the End User License Agreement. Participating Entities, if they do not wish to accept the End User License Agreement, shall return the Software Products to Program Member who shall return them to its ALCG.

(b) The "permitted number" of users or computers, as the case may be (that is referred to in the End User License Agreement), shall be determined by the number of Licenses obtained, by Program Member or Participating Entities, as applicable.

(c) Without prejudice to the terms of the End User License Agreement (which permit certain back up copies), Program Member is not permitted to reproduce or make any additional copies of the Software, the Media or the User Documentation.

5. Adobe grants to Program Member worldwide use rights under the Licenses obtained under the Program, which shall continue after termination or expiry of the Government Contract,

6. Program Member ID Number

Upon being authorized for the Program, ALCG will provide a Program Member ID number which shall identify Program Member as a member of the Program. Program Member shall treat such number as confidential information and not share or disclose such number to anyone other than its ALCG or Government Reseller (if applicable) or Participating Entities who are participating in the Program. In addition, Program Member shall receive a master serial number for each Adobe product and that number shall also be confidential. The sole exception to the foregoing is a requirement of disclosure to the limited extent that such is required under the laws of Washington as applicable to Program Member or Participating Entities.

7. Obtaining Licenses and Maintenance

(a) Commencing on the date it receives a Program Member ID number, Program Member shall be entitled to order Licenses, Media, User Documentation, Upgrades and Maintenance through its ALCG. ALCG shall be authorized by Adobe to communicate installation information to Program Member.

(b) Program Member shall obtain Points under the Program by obtaining Licenses or Maintenance through ALCG. Program Member may have a requirement for multiple Licenses without requiring the corresponding Media and/or User Documentation. Accordingly, Program Member may order Licenses, Media and/or User Documentation separately, provided that Program Member has acquired a

License for each copy of the Software which it installs or uses (save for the permitted number of back-up copies) and no right to use Media shall be granted without obtaining a corresponding License.

(c) Without prejudice to the right to install and use Adobe products validly licensed prior to or during participating in the Program, Program Member shall only be entitled to install and use Software Products that have been ordered through its ALCG (or Government Reseller, if applicable)

8. Minimum Government Contract Commitment – Points Target

You agree that during the term of a Government Contract, you will order a minimum quantity of Adobe software licenses. The ALCG or Government Reseller shall submit to Adobe a Program Member Authorization which will indicate a Points Target level for your expected purchases of Adobe software licenses to be achieved (Points Target) during the term of the Government Contract. Adobe has established license fees to the ALCG or reseller/ integrator based on that Points Target. The minimum Points Target is 1,000 Points during the term. The Points Target commitment establishes a license fee level for the Government Contract.

Adobe has the right to change the license fee level to the ALCG or Government Reseller with thirty (30) days advanced notice to ALCG (who will then provide notice to you) if Adobe's records indicate that the Points Target for your Government Contract term is not being achieved. The schedule of percentage commitments is set forth below.

Term	1st year	Year	Year	Year	Year
1- year Government Contract	100% of Points Target by end of year				
2- Year Government Contract	50% of Points Target by end of year	100% of Points Target by end of year			
3-Year Government Contract	33% of Points Target by end of year	66% of Points Target by end of year	100% of Points Target by end of year		
4-Year Government Contract	25% of Points Target by end of year	50% of Points Target by end of year	75% of Points Target by end of year	100% of Points Target by end of year	
5- Year Government Contract	20% of Points Target by end of year	40% of Points Target by end of year	60% of Points Target by end of year	80% of Points Target by end of year	100% of Points Target by end of year

- (a) Each acquisition of a License or Maintenance hereunder entitles Program Member to a certain number of Points. Legacy Products shall only count towards Points where Maintenance is acquired for such Legacy Products.
- (b) For the avoidance of doubt, Program Member's Participating Entities who are participating in the Program shall not have separate Points Targets and acquisitions of Licenses and Maintenance by such Participating Entities shall count towards Program Member's Points Target.
- (c) By entering into the Program, Program Member indicates its intention, over the term of the Government Contract, to obtain Licenses and Maintenance with a total Point value equal to Program Member's Points Target.

- (d) At the appropriate stages, Adobe and Program Member's ALCG shall review the Licenses and Maintenance which Program Member has acquired. If Program Member has failed to achieve the minimum Points values pursuant to this Agreement Adobe reserves the right to re-level Program Member's participation in the Program with immediate effect and without judicial intervention by giving written notice to Program Member's ALCG, who shall then notify Program Member.

9. Maintenance

- (a) The right to order Maintenance on the terms offered under these terms and conditions for the Program shall terminate on the expiry or termination of Program Member's right to participate in the Program.
- (b) Maintenance for the Licenses is optional. All fees for Software Products, including Maintenance fees, are determined by the ALCG. Maintenance for Software Products may be obtained at various intervals during the Program and Program Member may choose from two options:
 - (i) an option whereby all the fees for Maintenance are paid for one (1) year of coverage ; or
 - (ii) an option whereby all fees for of the Maintenance are paid for two (2) years of coverage.
- (c) To obtain Maintenance for Licenses during the Term of the Program, Program Member must be at the currently shipping version of a Software Product and a new version of that Software Product must not have been announced by Adobe.
- (d) Legacy Products may be covered by Maintenance, subject to the following conditions:
 - (i) if the Legacy Product is a shrinkwrap version of an Adobe software product which is not the currently shipping version (and a new version of that Adobe software product has not been announced by Adobe), Program Member may acquire an Upgrade through the Program and then subscribe for Maintenance; or
 - (ii) if the Legacy Product is the currently shipping shrinkwrap version of an Adobe software product (and a new version of that Adobe software product has not been announced by Adobe), Program Member may subscribe for Maintenance; or
 - (iii) if the Legacy Product is a license acquired through an Adobe volume licensing program and it is not the currently shipping version (and a new version of that Adobe software product has not been announced by Adobe), Program Member may acquire an Upgrade through the Program and then subscribe for Maintenance; or
 - (iv) if the Legacy Product is a license acquired through an Adobe volume licensing program and it is the currently shipping version (and a new version of that Adobe software product has not been announced by Adobe), Program Member may subscribe for Maintenance; or
 - (v) if the Legacy Product is an OEM version of an Adobe software product which is not the currently shipping version (and a new version of that Adobe software product has not been announced by Adobe), Program Member may acquire an Upgrade through the Program and then subscribe for Maintenance; or

- (vi) if the Legacy Product is an OEM version of an Adobe software product (and a new version of that Adobe software product has not been announced by Adobe), Program Member may subscribe for Maintenance.
- (e) Program Member is entitled to subscribe for Maintenance during the Government Contract for all new or upgrade Licenses acquired under the Program.
- (f) Program Member acknowledges that nothing in these terms and conditions shall obligate Adobe to maintain any Software Product, or in the event Adobe does provide Upgrades, to provide such Upgrades at any particular time or with any particular content, or to maintain a contractual relationship with any ALCG.

10. Term of Program

- (a) The Program shall commence on the date Program Member receives a Program Member ID and continue until the end of the final calendar month of the Government Contract term, unless Program Member's rights to participate are ended earlier. There shall be no automatic renewal of the Program.
- (b) Effect of ending Program Member's right to participate:
 - (i) Immediately upon ceasing to have rights in the Program, Program Member shall cease all installation of the Software for which licenses have not already been acquired.
 - (ii) The End User License Agreement under which Program Member uses the Software Products shall continue so long as Program Member's use of the Software Products is in compliance with all the terms and conditions of the End User License Agreement.
 - (iii) For the avoidance of doubt, Participating Entities of Program Member shall cease to be entitled to participate in the Program once Program Member is no longer entitled to participate. Program Member shall communicate this to Participating Entities.
 - (iv) Immediately upon ceasing to have rights in the Program, Program Member's right to use the accumulated Points under the Program shall terminate.
- (c) The ALCG or Government Reseller shall submit to Adobe a Program Member Authorization which will indicate a Points Target level for your expected purchases of Adobe software licenses to be achieved during the term of the Government Contract. Adobe has established license fees to the ALCG or reseller/ integrator based on that Points Target. The minimum Points Target is 1,000 Points during the term. The Points commitment establishes a license fee level for the Government Contract.

11. Proprietary Rights

Program Member acknowledges that the structure and organization of the Software Products is proprietary to Adobe, its licensors and suppliers and that Adobe, its licensors and suppliers retain exclusive ownership of the Software Products. Program Member shall take all reasonable measures to protect the proprietary rights of Adobe, its licensors and suppliers in the Software Products. Except as provided herein, Program Member is not granted any rights to patents, copyrights, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights, franchises or licenses with respect to the Software Products.

12. Program Member Tracking

Program Member represents and warrants to Adobe and its ALCG, that Program Member has systems and/or procedures in place at all of its facilities sufficient to track and control the use of the Software Products to ensure that Program Member can accurately report to its ALCG the correct number of copies of the Software which have been installed by Program Member. Program Member shall advise Participating Entities of their obligation to track and control the use of the Software Products to ensure that Participating Entities can accurately report to their ALCG(s) the correct number of copies of the Software which have been installed by such Participating Entity.

13. Verifying Compliance

- (a) During the term of the Program, and for a period of two (2) years thereafter, Program Member shall maintain a complete, clear accurate record of the number of Licenses used and the geographical location of the workstation or CPU where each License installed by Program Member is used. Program Member shall advise Participating Entities that they shall have the same obligation.

Program Member and Participating Entities acknowledges that Adobe has a substantial and legitimate business interest in preventing illegal use of Software Products. Accordingly, to ensure that Program Member and its Participating Entities are properly licensed, and to ensure Program Member's and its Participating Entities' compliance with the terms of this Agreement, for the Term of the Agreement and two (2) years thereafter, Adobe shall have the right to have an verification inspection and, if deemed necessary by Adobe, an audit of all the relevant records of Program Member and Participating Entities, this shall include and necessary and reasonable access to all CPUs which have access to the Software (including those owned or controlled by Participating Entities). A verification or audit shall be conducted by Adobe's internal auditors or an independent certified public accountant from a nationally recognized public accounting firm whose fee is paid by Adobe and is subject to an appropriate confidentiality obligation. A verification or such audit shall be conducted with seven (7) days prior written notice, during regular business hours at Program Member's or Participating Entities' offices (as the case may be) and in such a manner as not to unreasonably interfere with Program Member's or Participating Entities' normal business activities. In no event shall audits be made more frequently than every twelve (12) months.

- (b) For the avoidance of doubt, any such audit shall not be concerned with any review of the terms (including financial terms) upon which Program Member or Participating Entities obtained Software Products from an ALC.

If such inspection and audit should disclose any under reporting, Program Member and/or Participating Entities shall immediately acquire all necessary Licenses and if such under reporting exceeds five percent (5%), Program Member and/or Participating Entities shall pay one-hundred percent (100%) of the audit costs. Adobe reserves the right to terminate Program Member's right and/or Participating Entities' right to participate in the Program should such under reporting be significant, such termination shall be without prejudice to Adobe's other rights and remedies at law.

14. Consent to Use Data

You agree that Adobe and its ALCGs and Government Resellers may collect and use technical information gathered in any manner as part of the product support services provided to you, if any, related to the Software Products. Adobe may use this information solely to improve our products or to provide customized services or technologies to you. Adobe may disclose this information to others, but not in a form that personally identifies you.

15. No Commercial Hosting

You may not provide commercial hosting services with the Software Products.